



DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED-2014-OSERS-0024]; [CFDA Number: 84.315C.]

**Proposed priorities--Capacity Building Program for
Traditionally Underserved Populations--Vocational
Rehabilitation Training Institute for the Preparation of
Personnel in American Indian Vocational Rehabilitation
Services Projects**

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Proposed priorities.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes two priorities under the Capacity Building Program for Traditionally Underserved Populations. The first would establish a new vocational rehabilitation (VR) training institute for the preparation of personnel in the American Indian Vocational Rehabilitation Services (AIVRS) program. The second would encourage applications submitted through a collaborative arrangement between a four-year institution of higher education (IHE) and a two-year community college or tribal

college. The Assistant Secretary may use these priorities for competitions in fiscal year (FY) 2014 and later years. We take this action to improve the provision of VR services to, and the employment outcomes of, American Indians with disabilities.

DATES: We must receive your comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** .

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- Federal eRulemaking Portal: Go to www.regulations.gov to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "Are you new to the site?"

- Postal Mail, Commercial Delivery, or Hand Delivery:

If you mail or deliver your comments about these proposed regulations, address them to Kristen Rhinehart, U.S. Department of Education, 400 Maryland Avenue, SW., room 5027, Potomac Center Plaza (PCP), Washington, DC 20202-2800.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Kristen Rhinehart.

Telephone: (202) 245-6103 or by email:
kristen.rhinehart@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding these proposed priorities. To ensure that your comments have maximum effect in developing the final priorities, we urge you to identify clearly the specific section of the priority that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from these proposed priorities. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice in room 5027, 550 12th Street, SW., PCP, Washington, DC, 20202-2800, between the hours of 8:30 a.m. and 4 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays. Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Purpose of Program: The Capacity Building Program for Traditionally Underserved Populations under section

21(b)(2)(C) of the Rehabilitation Act, as amended (29 U.S.C. 718(b)(2)(C)) provides outreach and technical assistance (TA) to minority entities and American Indian tribes to promote their participation in activities funded under the Rehabilitation Act, including assistance to enhance their capacity to carry out such activities.

Program Authority: 29 U.S.C. 718(b)(2)(C).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, and 97. (b) The Department of Education debarment and suspension regulations at 2 CFR part 3485.

Proposed Priorities:

This notice contains two proposed priorities.

Priority 1: Vocational Rehabilitation Training Institute for the Preparation of Personnel in American Indian Vocational Rehabilitation Services Projects.

Priority 2: Applications that propose collaborations, which must be demonstrated by formal agreements, between four-year institutions of higher education and two-year community colleges or tribal colleges.

Background:

The AIVRS program, authorized under section 121 of the Rehabilitation Act of 1973, as amended (Rehabilitation Act), is funded through a mandatory set-aside of the VR State Grants program. Because funds set aside for the AIVRS program increase at the same rate as the VR State Grants program, the number of AIVRS projects has increased from 69 to 85 over the last 10 years. However, section 121 of the Rehabilitation Act does not provide authority to use AIVRS funds to provide training and TA to the growing number of AIVRS projects. Thus, the Department has used the resources available through the set-aside authority in section 21 of the Rehabilitation Act to provide TA under the Capacity Building Program for Traditionally Underserved Populations.

Although beneficial, the current and past TA projects differ from the training and TA to be provided through this proposed project. The current AIVRS TA project, the TVR Circle, (Tribal Vocational Rehabilitation Continuous Improvement of Rehabilitation Counselors, Leaders, and Educators (CFDA 84.406)), provides concentrated short-term training in specific areas such as managing expenditures, determining what constitutes an allowable service, and understanding performance report requirements. The TVR

Circle was not designed to provide the scope and sequence of training that is intended for this proposed project. The Department also recently supported AIVRS Capacity Building projects (Capacity Building for Minority Entities (CFDA 84.315D)) that focused on providing training and TA to current and potential AIVRS grantees to improve their grant writing and ability to compete for an AIVRS grant. The Capacity Building for Minority Entities projects also provided TA for first-time grant recipients in order to increase their ability to carry out their grants. Unlike the current and past programs described, this proposed project will focus on the development and implementation of a structured program of training for AIVRS personnel on foundational VR knowledge and skills in the provision of VR services to American Indians with disabilities.

During on-site and desk monitoring of the AIVRS projects conducted over the past few years, the Rehabilitation Services Administration (RSA) has observed that there is a need to help AIVRS personnel to work more effectively with individuals with disabilities and to fulfill their roles as VR counselors, VR technicians, and program administrators. Three factors contribute to this need. First, many of the personnel employed by AIVRS

projects live in rural and remote communities. While many of these individuals have relevant experience in social service fields, they often have not had the opportunity to obtain formal training in rehabilitation counseling. Second, the remote location of many AIVRS projects not only makes it difficult for local personnel to obtain further training due to distance and cost, but it also makes it difficult to recruit VR counselors from other areas to work in AIVRS projects. Third, the AIVRS program requires projects to give a preference in employment to American Indians, with a special priority being given to American Indians with disabilities. While individuals who are American Indian may be more effective as VR counselors because they understand American Indian cultural practices and norms, this practice limits the hiring pool of VR counselors and personnel.

Current AIVRS personnel could benefit from a structured training program focused on the VR process and practices and the unique skills and knowledge necessary to improve employment outcomes for this population. An important initiative that supports this priority is the issuance of the Presidential Memorandum on Job-Driven Training for Workers that was issued on January 30, 2014

(79 FR 7041). In particular, one of the principles in section 1(b)(ii) of the memorandum is that training programs should provide "support for secondary and post-secondary education and training entities to equip individuals with the skills, competencies, and credentials necessary to help them obtain jobs, increase earnings, and advance their careers."

VR personnel require a better understanding of: how various disabilities impact an individual's ability to participate in competitive employment, how to interview and evaluate the eligibility of prospective AIVRS consumers respectfully and appropriately, how to develop a reasonable and achievable individualized plan for employment (IPE), how to manage effectively the services and supports provided to the individual identified in the IPE, how to obtain and utilize accurate labor market information to understand the skill needs and demands of local employers, and how to develop employment opportunities to meet those demands that are at appropriate skill levels and consistent with the consumer's aspirations, as documented in their IPE.

VR personnel also need to understand how job training, reasonable accommodations, and assistive technology help

individuals with disabilities to pursue, obtain, and retain competitive employment. In addition, program administrators would benefit from training in areas such as financial management and accountability, performance measurement, and case management. We believe that training in these areas will better prepare AIVRS personnel to provide appropriate, effective, and culturally relevant VR services to American Indians with disabilities so that they can prepare for, and engage in, gainful employment consistent with their informed choice.

We also seek applications from partnerships between a community or a tribal college and a four-year IHE. We believe that community colleges or tribal colleges are uniquely suited to provide this type of customized instruction and that the involvement of four-year IHEs will improve the instruction by providing access to additional resources. The four-year IHEs can provide access to faculty who have a breadth of knowledge and experience in the field of VR in areas such as new and emerging needs of VR consumers. Four-year IHEs can also provide access to and guide the use of labor market information to communicate effectively with VR consumers and employers regarding information about the needs of individuals with a

range of disabilities and who are from diverse cultural backgrounds, assistive technology services and devices, and strategies for identifying employer skills needs and demands.

In order to ensure that proposed partnerships represent a workable, ongoing commitment, we would require that applications from partnerships demonstrate that commitment by providing a formal agreement detailing, among other things, how the partnership will operate and the respective roles and obligations of the participating institutions. We propose these minimum requirements for the agreements when inviting applications for the competition.

References:

Obama, B.H. Presidential Memorandum on Job-Driven Training for Workers. The White House, Office of the Press Secretary. 30 Jan. 2014. Available at <http://www.gpo.gov/fdsys/pkg/FR-2014-02-05/pdf/2014-02624.pdf>.

Proposed Priority 1:

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority to support the establishment of one institute under section 21(b)(2)(C) of the Rehabilitation Act—the Vocational Rehabilitation

Training Institute for the Preparation of Personnel in American Indian Vocational Rehabilitation Services Projects (the Institute). The Institute will provide a structured training program in VR to current AIVRS program personnel to improve the delivery of VR services to American Indians with disabilities. The training program will consist of a series of trainings specifically geared towards building foundational skills that, when satisfactorily completed, will lead to a VR certificate awarded by the Institute. The series of trainings may be offered in-person, through distance learning, or a combination of both delivery methods. The Institute will conduct an assessment both before and after providing training for each participant in order to assess strengths and specific areas for improvement, attainment and application of skills, and any issues or challenges to be addressed post-training to ensure improved delivery of VR services to American Indians with disabilities. The Institute will provide follow-up TA to participants to address any issues or challenges identified post-training and ensure that the training received is applied effectively in their work setting. Finally, the Institute will conduct an evaluation to obtain feedback on the training and follow-up TA provided and to

determine whether this improvement contributed to increased employment outcomes for American Indians with disabilities.

The Department intends to award this grant as a cooperative agreement to ensure that there is substantial involvement (i.e., significant communication and collaboration) between RSA and the grantee in carrying out the activities of the program (34 CFR 75.200 (b) (4)).

In coordination with the Department, the Institute must, in a culturally appropriate manner:

(a) Develop a structured program of training on foundational VR knowledge and skills that will lead to AIVRS personnel earning a VR certificate. The training would include, at a minimum: vocational assessment, determination of applicant eligibility, development of an IPE, the acquisition and use of assistive technology, and obtaining and utilizing up-to-date labor market information to understand the local economy and effectively match the skills of AIVRS consumers with the needs of employers. The Institute must provide culturally relevant training that goes beyond technical compliance with the statute and regulations and focuses on providing the basic foundational skills necessary to improve counseling and VR services

provided by AIVRS personnel. The training topics must include, at a minimum:

(1) Introduction to VR: an orientation to the field of VR addressing in general terms the various disabilities a VR counselor is apt to encounter working in the AIVRS program. The training developed by the Institute must teach AIVRS personnel to understand the nature of a significant disability and the complexities a person with such a disability experiences, as well as teach how various disabilities affect an individual's ability to participate in competitive employment;

(2) Effective communication with AIVRS consumers including: approaches to, techniques for, and relevant examples of developing trust and rapport with individuals with a disability, appropriate conduct when engaging with individuals with a disability, and interacting with members of the tribal council;

(3) Effective communication with business: approaches to, techniques for, and relevant examples of building and maintaining relationships with business. This includes educating potential employers about how reasonable accommodations and assistive technology can be used to support effectively the employment of individuals with

disabilities. The Institute must also teach participants how to obtain accurate labor market information on available employment opportunities in their State and local area, and how to identify education, technical requirements, and necessary skill sets for the jobs available;

(4) Conducting a vocational assessment and determining eligibility: how to obtain and evaluate necessary medical and other documentation and the results of assessments that may have been conducted by entities other than the AIVRS program. The Institute must teach AIVRS personnel how to use appropriate assessment tools that assist in determining an individual's eligibility for VR services and in developing an IPE;

(5) Managing caseload: how to manage cases so that information can be retrieved and communicated to the AIVRS consumer in a timely manner. The Institute must teach AIVRS personnel how to create, manage, and appropriately close consumer case files;

(6) Development of an IPE: how to plan and provide VR services leading to meaningful employment opportunities that are at appropriate skill levels and consistent with

the consumer's abilities, interests, and informed choice;
and

(7) Development of job seeking skills: approaches to, techniques for, and relevant examples of improving job seeking skills. This includes resume preparation, practicing interview skills, networking, navigating job sites, targeting job searches, and other effective skills that will lead to job placement for AIVRS consumers.

(b) Develop a course syllabus that describes the proposed sequence of topical training.

(c) Develop a training module for one of the seven topics in paragraph (a) to serve as an example for how participants will be trained in that area.

(d) Develop a recruitment and retention plan that describes how the Institute will conduct outreach and recruitment efforts to enroll current AIVRS personnel into the Institute. Current AIVRS staff may nominate themselves or be nominated by the AIVRS project director to participate in the Institute. The plan must also describe how the Institute will provide academic support and counseling for AIVRS personnel to ensure successful completion, as well as steps that will be taken to provide assistance to AIVRS personnel who are not performing to

their fullest potential in the Institute's training program.

(e) Identify innovative methods and strategies for supporting AIVRS personnel when they have completed the training, including a plan for maintaining regular contact with AIVRS personnel upon successful program completion and providing follow-up TA on various situations and settings encountered by AIVRS personnel in working with American Indians with disabilities, as well as TA on effective programmatic and fiscal management of an AIVRS project.

(f) Develop an assessment tool for use by the Institute before and after the training. The assessment must identify the strengths and specific areas needing improvement of participants prior to the beginning of the training. In addition, 90 days after the training is completed, the assessment must determine attainment of skills, demonstrated application of those skill sets, and any issues or challenges for participating AIVRS personnel that may impact improved delivery of VR services to American Indians with disabilities. The Institute must administer the assessment tool and provide a copy to participants. The Institute must also ensure that the

results are reviewed with participating AIVRS personnel and shared with their respective Directors.

(g) Describe a plan to provide follow-up TA, either virtually or on-site, to participants. The purpose is to ensure that the training AIVRS personnel received is applied effectively in their work settings and addresses any issues or challenges identified as a result of the assessment that is conducted 90 days after the training is completed.

(h) Describe how the Institute will be evaluated. Such a description must include:

(1) How the Institute will determine its impact over a period of time on improving the delivery of VR services to American Indians with disabilities and increasing employment outcomes;

(2) How input from AIVRS project directors will be included in the evaluation;

(3) How feedback from American Indians with disabilities will be included in the evaluation;

(4) How data on the number of consumers served by the AIVRS program from other sources on tribal VR programs, such as those from the Department, will be included in the evaluation; and

(5) How the data and results from the evaluation will be used to make necessary adjustments and improvements to the AIVRS program and training of AIVRS personnel.

Proposed Priority 2:

Applications that propose collaborations between a four-year IHE and a two-year community college or tribal college. The collaboration must be demonstrated by a formal agreement. The Secretary may require that the formal agreement contains one or more of the following:

(1) Signatures from the president and chief financial officer of both parties.

(2) A plan demonstrating how the collaboration will operate each year during the five-year grant period of performance. The plan must include how information regarding the progress of the grant, as well as any issues and challenges will be communicated, and what steps will be taken to resolve conflicts.

(3) Roles, responsibilities, and deliverables of each party.

(4) In-kind or financial contributions from both parties.

(5) A plan to sustain the collaboration and the structured training program after the federal investment.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the Federal Register. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priorities:

We will announce the final priorities in a notice in the Federal Register. We will determine the final priorities after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use these priorities, we invite applications through a notice in the Federal Register.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment,

public health or safety, or State, local or tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this proposed regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs

(recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory

Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing these proposed priorities only upon a reasoned determination that their benefits would justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities. The benefits of appropriate and comprehensive VR training for individuals working in the AIVRS Projects

cannot be underestimated. Some staff do not currently have sufficient knowledge and skills in the field of VR. In addition, TA to these projects after staff completes the VR training will solidify the gains in knowledge made by staff during training. We believe AIVRS personnel well-grounded in knowledge of VR requirements and best practices will result in better employment outcomes for the American Indians with disabilities whom the projects serve.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT.**

Electronic Access to This Document: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of this Department published in the Federal Register, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the Federal Register by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: June 6, 2014.

Michael K. Yudin,
*Acting Assistant Secretary for
Special Education and
Rehabilitative Services.*

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